

## RESPONSE

### Drawings

1. **The Drawings are objected to because the specification discloses in the brief Description of the Drawings of Figure 6A; however, Figure 6A is not included in the drawing sheets. Please note that applicant's proposed drawing correction of Figure 6A filed on 2/20/2001 has not been approved by the examiner; thus objection to the drawing is still outstanding.** The applicant added Figure 6A to show the invention without the structural members of a building. If the figure is not approved by the examiner, the applicant respectfully requests that the examiner delete Figure 6A and the brief description of the drawings. There would be no need for renumbering the other figures.

### Claim Rejections 35 USC §112

2. **Claims 20-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with terms which lack antecedent basis, such as: claim 22, "the top plate".** Claim 21, line 4, states "along a top plate of a wall".
3. **Claim 23 "said extended tab".** The applicant has amended claim 20, lines 5-6 to define the extended tab. "said rectangular face having the central part of one side of the long dimension extended in the same plane, forming an extension tab;". This states the extension tab.
4. **Claim 20, (i) lines 5-6, the limitation of the rectangular face having "one side of the dimension extended" is vague and indefinite for failing to clearly define the metes and bounds of the claimed invention; it is not clear what applicant is trying to define here.** As stated in 3 above, the applicant has stated in the amended claim what part of the

long dimension is extended (the central part), where it is extended (in the same plane), and that it forms a tab (extension tab).

5. **Claim 20, (ii) lines 7-9, the claim recited a right angled bend on “either end”, not both ends, thus the recitation of “each forming a rafter tab” is indefinite.** The applicant has amended line 8 to make the line: “bend on ~~either~~ both ends of the short dimension”.
6. **Claim 20, (iii) lines 12-15, it is not clear how it is possible for a “generally right angled bend on the side of the long dimension” is able to form “a plurality of sheathing tabs”.** On the applicant’s Figure 4, showing the flat pattern layout, a right angle bend along the axis shown as **8A** will produce tabs **8, 9, 18, and 19**. The same right angled bend forms the axis for each tab. The applicant has amended the last line as follows: “extended ~~side~~ tab, forming the axis for a plurality of sheathing tabs”.
7. **Claims 23, 24, 25, “the extended tab” lacks antecedent basis.** The applicant has amended claim 20, as stated in applicant’s paragraph 3 above, to state the “extended tab”.
8. **Claims 25, 27, 28, “the rafter tabs” lacks antecedent basis.** Amended claim 20c, line 9, introduces the rafter tab.
9. **Claim 26, it is not clear how it is possible for the right angled bend of the sheathing tabs to be generally “parallel” to the long dimension, such that the sheathing tabs generally “perpendicular” to the rectangular face.** The axis of the right angle forming each sheathing tab is basically the long dimension of the rectangular face. Applicant’s amended claim 20e states that the “right angled bend on the side of the long dimension”. Since the bend is on the side of the long dimension, the sheathing tabs are parallel to each other and perpendicular to the rectangular face. Claim 25, lines 1-3 is now: “The apparatus of claim 20 wherein said sheathing tabs having the axis of said generally right

angled bends ~~generally parallel to~~ on the long dimension of said rectangular face”.

10. **Claim 27, it is not clear how it is possible for the right angled bends of the rafter tabs to be “parallel” to the short dimension, such that the rafter tabs “perpendicular” to the rectangular face.** The axis of the right angle forming each rafter tab is basically the short dimension on each side of the rectangular face. Claim 27, lines 2-4 are amended as follows: “rafter tabs having said generally right angled bends ~~generally parallel to~~ on each short dimension of said rectangular face,”.
11. **Claim 34, (i) lines 3-4, it is not clear how rectangular two “planes” forming left and right faces.** The applicant has amended claim 34, lines 3 and 4, as follows: “rectangular ~~planes~~ plates forming left and right faces with one face partly overlapping the other,”.
12. **Claim 34, (ii) line 22, “both plates” lacks antecedent basis.** The applicant has amended claim 34, last line, as follows: “lateral locking of both ~~plates~~ left and right faces.”
13. **Claim 38, “coupled” plates lacks antecedent basis.** The applicant has changed “coupled plates” to “left and right faces” in claims 34e, 37, and 38.
14. **Claim 39, it is not clear whether or not the rafters, the outside wall sheathing, the underlying top plate, the roof, wall of an existing building are being positively claimed in the claim.** The applicant has amended claim 34, line 3, as follows: “sheathing tabs having ~~attachment~~ attaching means to said rafters”. Also, on lines 7 and 8: “and wall ~~of an existing building~~ during strong winds and earth movements, when mounted on an existing building.”

#### **Claim Rejections 35 USC § 103**

15. **Claims 20-34 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over**

Jonett et al discloses and apparatus for securing structural members of building, Figs 2-3, comprising all the elements recited in the above listed claims and including a unitary body having a rectangular face with ventilation holes, a right angled bend forming a sheathing tab 26, rafter tabs 32', plate tabs 46', wall tabs 72, and a lower long side 72 extended down forming an extended tab, wherein each tab has plurality of nail holes therein, the generally right angled bends of the sheathing tabs being generally parallel to the long dimension of the rectangular face, thereby placing the sheathing tabs generally perpendicular and adjacent to the rectangular face, the axis of said bends forming said rafter tabs being generally parallel to the short dimension of the rectangular face, and the axis of said bends forming said plate tabs being generally parallel to the rectangular face. The differences being that Jonett does not disclose a plurality of sheathing tabs, the sheathing tabs each having a bolt hole, the extended tab having a generally trapezoidal shape. Comparing the applicant's rear view of his invention (Fig. 3), and Jonett's rear view of his invention (Fig' 3) shows big differences. Jonett shows a back plate 84 at about a 30 degree angle to the face plate 22. The back view of the applicant's invention on Fig. 3 shows the strong, open-box-shape that the sheathing tab 8, rafter tab 4, plate tab 6, and face plate 2 form on either end of the invention. Since Jonett does not have sheathing tabs, it cannot form a strong box shape.

The applicant's claim 33 has previously stated how the tabs form the box-section, and how strong it makes a building. The applicant has narrowed claim 20 by bringing the perpendicular, box-section pattern from claim 33. Amended claim 20 now has the following:

- f. "said rectangular face, said rafter tabs, said sheathing tabs, and said plate tabs all being at approximate right angles to each other forming an open box shape."

Bringing information from a dependent claim to an independent claim narrows the claims without introducing new matter. This also reads over the cited reference. Jonett's

invention, shown in side view on his Fig. 5, has his tabs at all different angles, and could not be at approximate right angles to each other or form an open box shape.

16. **In regard to a plurality of sheathing tabs, instead of just one sheathing tab 26, it would have been obvious to one skill in the art to provide the structure of Jonett with a plurality of sheathing tabs instead of one integral sheathing tabs, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Further, it also has been held that mere duplication of the essential working parts of a device involves routine skill in the art. In regard to the sheathing tabs each having a bolt hole, since Jonett also teaches the idea of providing holes to various parts of the apparatus for receiving fastening means therein, it would have been obvious to provide each sheathing tab with a hole in order to receive a fastening means therein. In regard to the extended tab having a generally trapezoidal shape, it would have been an obvious matter of design choice to modify the structure of Jonett by providing the extended tab with a trapezoidal shape, since applicant has not provide the criticality of having the extended shape with this specific shape, and it appears that the extended tab of Jonett would perform equally well. Jonett's upper rib 26 is not shown connected to anything and is not meant to. The bend forming the upper rib 26 is designed to make the thin material stronger. Therefore it would not be obvious to provide nail holes for attaching it to anything. Jonett doesn't mention what the upper lip is for, but his angled back plate 84 has the same type of lip 92. On Jonett's column 3, lines 46-47, it says "The upper edge 86 forms a lip 92 to hold batt insulation." The applicant's claim 20 has been amended to include the open box-shape which clearly reads over Jonett.**

Jonett's first and second stud tie down straps 72 and 72' tie the bottom ends of his invention down. Truss cord flanges 32, top chord truss webs 46, and top plate tabs 60 tie the ends down. Nothing appears to tie down the center part of his invention to the building. The applicant's extended tab 3 ties down the important center part of the

invention. This makes the present invention much stronger than Jonett's and much different. Since Jonett's invention is primarily for ventilation, and the ends of Jonett's invention are tied down securely, it would not be obvious to secure the middle part to prevent wind or seismic damage to a building.

17. **Claims 34-39 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Jonett et al. The only difference being that Jonett does not disclose the apparatus being formed of two flat plates, with one of the plates having horizontal tracks with opening on one end and the other plate having runners with faces and arms. It would have been obvious and well within the level of one skilled in the art to modify the apparatus of Jonett et al by having the apparatus being formed of two flat plates, with one of the plates having horizontal tracks with openings on one end and the other plate having runners with faces and arms for the purpose of making the apparatus adjustable to different sizes. Since Jonett's invention was for ventilation, there would be no need to make it two-piece for strength or retrofit. The resulting strength of the present invention in preventing wind and seismic damage to a building is new, superior, and unsuggested by the prior art. The present invention solves a long-felt, but unsolved need for building strength and safety that was unprovided by existing inventions.**

#### **Response to Arguments**

18. **Applicant's arguments filed 12/4/2006 have been fully considered but they are not persuasive. In response to applicant's argument on pages 4-5 that applicant's claimed invention only has one rectangular face, while Jonett shows two, the examiner takes the position that the transitional term "comprising" is an inclusive or open-ended and does not exclude additional, unrecited elements.**

**In response to applicant's argument on page 5 that applicant only claimed "a**

**singular extended tab on one edge of the long dimension”, while Jonett clearly shows two tabs 72, the examiner again takes the position that the transitional term “comprising” is an inclusive or open-ended and does not exclude additional, unrecited elements. Further, it is noted that the features upon which applicant relies (i.e., a singular extended tab on one edge of the long dimension) are not recited in the rejected claim(s). The applicant has amended claim 20 as follows: “said rectangular face having one side of the long dimension extended in the same plane, forming an extension tab;” This shows that the extension tab is a singular tab.**

- 19. In response to applicant’s argument on page 5 that Jonett fails to show the sheathing tabs are “adjacent” to the rectangular face, the examiner takes the position that the term “adjacent” is broad enough that Jonett still meets the claimed limitation. Jonett fails to have any “sheathing tabs”. Applicant’s paragraph 16 has shown that Jonett has no sheathing tabs.**
- 20. In response to applicant’s argument on page 6, # 17, the examiner takes the position that the claimed language fails to provide adequate structural limitations in order to distinguish from the prior art of record. The applicant has added the open-box shape to claim 20 which reads over Jonett without adding new matter.**
- 21. In response to applicant’s argument on page 7 that applicant’s amended claim 39 stated wind and earthquake resistance and thus read over Jonett, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Without the center part of Jonett’s invention having attachment to a building, it cannot provide wind or seismic protection like the applicant’s extended tab on the present invention.**

## Conclusion

22. The applicant has amended the claims as stated by the examiner to meet the 112 rejections. The applicant has also brought parts of dependent claim 33 into independent claim 20 (open box shape) to meet the 103 rejection. The amended claims are now in proper form, and the claims all define patentably over the prior art. Therefore, the applicant submits that this application is now in condition for allowance.
23. The applicant has amended the claims with the proper claim identifiers as set forth in the examiners response and to 37 CFR 1.111. The applicant has amended the claims of this application so that they are proper, definite, and define novel structure which is also unobvious. If for any reason this application is not believed to be in full condition for allowance, the applicant respectfully requests the constructive assistance and suggestions of the examiner pursuant to M.P.E.P. § 2173.02 and § 707.07(j) in order that the undersigned can place this application in allowance as soon as possible without the need for further proceedings.

Very respectfully,

  
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